



The State Bar *of California*

**OPEN SESSION
AGENDA ITEM
701 JANUARY 2023
FINANCE COMMITTEE III.A**

DATE: January 19, 2023

TO: Members, Finance Committee
Members, Board of Trustees

FROM: Aracely Montoya-Chico, Chief Financial Officer

SUBJECT: Discussion of State Bar 2023 Budget Pursuant to Business and Professions Code Section 6140.1 and Request for Additional Spending Authority Pending Formal Budget Adoption

EXECUTIVE SUMMARY

This item is presented to the Finance Committee and Board of Trustees (BOT) to support review of and discussion regarding the 2023 budget. Finance staff presented preliminary General and Admissions Fund budgets to the committee at its January 6 meeting. The Finance Committee directed staff to develop additional budget scenarios for the January 19 meeting. The Finance Committee also directed that an item regarding the budget be placed on the Board's agenda, for discussion, not action. Both the Finance Committee and the Board are asked to provide staff with necessary direction so that the 2023 budget can be finalized prior to the statutory deadline of February 28, 2023.

In addition, the Finance Committee is asked to extend the initial 2023 spending authority granted in November 2022. An extension is needed to cover the period between January 31, 2023, and budget submission.

DISCUSSION

The State Bar is experiencing decreasing a General Fund (GF) reserve balance year-over-year in addition to a significant structural deficit in the Admissions Fund. A high-level overview of key issues impacting these funds is provided below:

GENERAL FUND

1. One fee increase in the past 25 years. In 2020, the Legislature increased the General Fund portion of the licensing fee by \$71. The breakdown of the increase was \$21 to address the operating deficit, \$17 to expand retiree health to all employees, \$13 to add positions in the Office of Chief Trial Counsel, \$13 to help pay for salary increases due to a COLA adjustment, and \$7 to help with information technology replacements. In addition, there were special assessments for building improvements (\$4 for ten years), technology improvements (\$5 for five years), and to increase the General Fund reserve balance (\$3 for one year).

There are now at least 18 other states with licensing fees higher than the State Bar of California's including states with much lower cost of living, for example Idaho, Nevada, and Tennessee. ¹

2. No fee increase was approved for fiscal year 2023.
3. An MOU that guarantees 5 percent salary increases annually for all staff meeting expectations (step increases).
4. A recently negotiated MOU, which included a Cost-of-Living Adjustment (COLA) of 5 percent for non-attorneys and 10 percent for senior and supervising attorneys effective for fiscal year 2023. An additional COLA of 2.5 percent for each of the following two years. For 2023, the increase to personnel expenses as a result of the COLA is \$4.5 million State Bar-wide.
5. Pending sale of the San Francisco (SF) building. The State Bar's SF building was officially put up for sale in December 2022. However, the real estate market for commercial properties has deteriorated and the value of the SF building has decreased 15 to 20 percent from the appraised value since the same time last year. It is very difficult to know when or if the building will sell.
6. Based on the most recent midyear projections, General Fund reserves are projected to be approximately \$10.3 million or 10.9 percent at the end of 2022. The 10.9 percent reserve level is below the minimum threshold (17 percent) adopted by the Board.
7. 2022 budgeted salary savings of 15 percent. Actual savings year-to-date is approximately 20 percent.

¹ Comparable annual licensing fees are: California (\$420); Idaho (\$425); Nevada (\$690); Tennessee (\$600). Source: [2021 State and Local Bar Benchmarks Survey: Membership, Administration and Finance](#)

8. Growing Information Technology (IT) needs and a transition to the cloud and enterprise platforms increased costs in 2022 and will do so on a go forward basis. Investments in IT support accessibility, efficiency, transparency, and accountability goals; these investments however, are expensive, with nearly \$6 million annually in nondiscretionary, nonpersonnel, IT spend.
9. Work on GF program fee increases is still underway. The result of proposed fee increases, once approved, are not likely to be realized prior to 2024. Based on the latest fee analysis, the proposed increase to all GF programs would generate approximately \$3 million in total revenues and the overall impact of the fee changes is only a net \$0.7 million increase to the GF.
10. One-time significant expenses related to the special discipline case audit and subsequent investigations and the Odyssey data breach impacted GF spending in 2022.

ADMISSIONS FUND

1. General decreasing trend in Bar Exam applicants the past few years resulting in a decline in revenue. For example, revenue in 2020 was \$22.2 million and has decreased to approximately \$19.7 million for 2022. Overall revenue has declined nearly 30 percent since 2018.
2. Declining numbers of people taking the bar exam.
3. Increasing test administration costs.
4. Increased testing accommodations (TA) spending to improve functioning and compliance in this area.
5. With the current spending, the Admissions Fund is still in a severe deficit position and will require use of reserves.
6. Admissions Fund reserves are projected to end 2022 at \$2.9 million or 11.7 percent. The Legal Specialization Fund is a subset of the overall Office of Admissions. The Legal Specialization Fund has been merged with the Admissions Fund, after consideration of guidance received from the Office of General Counsel indicating that the State Bar has the ability to consolidate these funds. The resulting combined reserve totals \$9.5 million.
7. Work on Admissions fee increases is underway, however, similarly to General Fund fee increases, implementation is not likely to occur until 2024. Based on the latest fee analysis, the proposed increase to all Admissions programs would not generate sufficient revenue to fully address the Admissions shortfall. Cost reductions, namely in the form of efficiencies in the way the bar examination is delivered, need to be identified. Admissions staff is developing proposals in this vein.

2023 BUDGET

General Fund

For the January 6, 2022, committee meeting, staff prepared a memo describing two budget scenarios (minimal spend budget and revised preliminary budget). Staff recommended the

option that would result in the use of \$5 million, or approximately 50 percent, of the General Fund reserve balance².

The committee directed staff to prepare two additional scenarios, one reflecting use of one-third of the reserves (\$3.3 million), and one reflecting more realistic options for needed operational investments, including full funding for the SF building. Each of the now three budget scenarios are described below.

Scenario 1: Use of Reserves, \$5M

This GF budget scenario assumes that no more than 50 percent of the GF reserve will be used in 2023, leaving the remaining 50 percent for use in 2024. The proposed budget outlined in Table 1 below reflects the following assumptions:

1. The recently negotiated COLA for 2023 is fully funded.
2. Salary savings of 15 percent.
3. Two in-person meetings of most subentities.
 - a. The exception is meetings of the Commission on Judicial Nominees Evaluation (JNE) which is budgeted to meet 100 percent in person however the budget reflects one, versus two, nights of hotel accommodations.
4. Four in-person Board meetings.
5. IT budget that addresses core nondiscretionary operational expenses plus limited funds to advance IT infrastructure, security, and strategic plan directed initiatives. Details regarding the proposed IT budget spend can be found in Appendix A.
6. One additional external auditor to handle OCTC/2201 matters. This is distinct from the one that is currently funded and the two that were recommended by the State Auditor.
7. SF building costs budgeted for only six months of the year, including debt service payments, with the expectation the SF building will sell the latter part of the year.
8. 4 new OCTC positions funded to support increased operational efficiency.
9. \$400,000 to support access and diversity, equity, and inclusion (DEI) work not funded by grant and other donations.
10. \$150,000 for staff training to promote a well-trained and engaged workforce.
11. \$200,000 for communications to advance strategic initiatives related to public, licensee, and stakeholder outreach.
12. Staff travel limited at \$100,000.
13. Elimination of one vacant position and another position budgeted for only six months.

² Ending 2022 GF projected reserves are approximately \$10.3 million. This balance is based on preliminary ending 2022 balances. The various scenarios outlined below assume approximately \$10 million in reserves accordingly. However, additional adjustments will be made as part of the process for 2022 close. These adjustments could result, after balances are finalized for 2022, in a reduction to the projected reserve of \$10.3 million.

Table 1. 2023 Revised/Current GF Budget

	Projected Revenues	Projected Expenses	Overall Deficit	Projected Reserve
General Fund	\$91.4M	\$96.3M	(\$4.9M)	\$5.4M

Scenario 2: Use of Reserves, \$3.3M

This GF budget scenario assumes that no more than one-third of the GF reserve will be used in 2023, leaving the remaining for use in 2024. The proposed budget outlined in table 2 below reflects the following assumptions which should be understood as modifications to Scenario 1:

1. Eliminate all 4 new OCTC positions – (\$449,000)
2. Eliminate all temporary and casual help – (\$940,000)
3. Reduce in-person Board meetings to two – (\$23,600)
4. Reduce in-person JNE meetings to two – (\$84,000)
5. Reduce staff training and communications budgets – (\$110,000)

Total reductions = \$1.6 million

Table 2. GF Budget Scenario 2

	Projected Revenues	Projected Expenses	Overall Deficit	Projected Reserve
General Fund	\$91.4M	\$94.7M	(\$3.3M)	\$7.0M

Scenario 3 – Use of Reserves, \$8.1M

During its January 6 discussion, the Finance Committee raised concerns regarding some of the assumptions in the “\$5 million” budget, particularly in regards to SF building costs and projected salary savings of 15 percent. The proposed budget outlined in table 3 addresses the building cost issue; in addition, investments in other critical operational areas under-funded by the \$5 million scenario are included. The budget in table 3 thus reflects a more realistic picture of necessary 2023 spending for the committee’s consideration.

Note however that the modification from 15 to 10 percent salary savings, as directed by the committee, is not reflected in table 3. This change alone would add an additional \$4.7 million to the General Fund deficit.

Table 3 assumptions, which should be understood as amendments to Scenario 1:

1. Fund the entire year of SF building operation/services – \$1,660,000³
2. Fund the entire year of SF debt service payments – \$870,000
3. Add professional services funding for 2201 program – \$400,000
4. Addition of IT professional services for priority projects: San Francisco courtroom modernizations and upgrades to RevQ, the system which transmits State Bar debt to the Franchise Tax Board – \$230,000

Total additions = \$3.2 million

5. Decrease salary savings from 15 percent to 10 percent – \$4,740,000 (not included in the overall deficit below)

Table 3. GF Budget Scenario 3

	Projected Revenues	Projected Expenses	Overall Deficit	Projected Reserve
General Fund	\$91.4M	\$99.5M	(\$8.1M)	\$2.2M

Other Discretionary Budget Components

A few other discretionary items for consideration include:

1. 6 month freeze on all open/vacant positions – (\$791,300)
2. Cut licensee preventative education plan funding – (\$146,000)
3. Cut CTAPP customer service support – (\$100,000)

Admissions

Because of the nature of admissions work, namely administration of the bar examination, the Admissions Fund incurs millions in nondiscretionary expenditures for professional services, exam, temporary help, and travel expenses annually. To develop the 2023 Admissions Fund budget, Finance and Admissions staff worked to estimate revenue and expenditures in each major category based on the following assumptions:

1. Assume similar revenue and expenditure patterns as 2022.
2. Assume no new positions.
3. COLA fully funded.
4. Same salary savings as those applied to General Fund.

³ In previous presentations to the Board, it was noted that SF building operations were approximately \$3.6 million per year. Those amounts were based on 2022 estimates. For 2023, total anticipated expenditures for the SF building operations are budgeted slightly lower at \$3.3 million. This amount is the addition of \$1.7M or 50% of expenditures needed for one year of building operations. The lower amount is due to reductions in repairs and maintenance due to the sale of the building and the tightening of the budget because of the poor general fund condition.

Table 4 outlines the results of this estimation process.

Table 4. 2023 Preliminary Admissions Budget

	Projected Revenues	Projected Expenses	Overall Deficit
Admissions Fund	\$17.5M	\$24.6M	(\$7.1M)

In May 2022, Finance staff presented to the Committee a proposal to increase Admissions programs fees to help close the significant structural deficit the Admissions Fund is experiencing. The proposed fee increase would generate additional revenue of approximately \$4 million in new revenue. The fee increase proposal needs to be updated, vetted by the Committee of Bar Examiners and other stakeholders, and submitted formally to the committee and Board later this year. As noted above, fee increases alone will not resolve the structural deficit. Staff is developing operational cost reduction proposals to complement fee increases accordingly.

Spending Authority Pending Formal Budget Adoption

In November 2022, staff obtained spending authority approval through adoption of the budget for an amount not to exceed \$105 million. This amount, which included significant grant expenditures, was sufficient for the period through January 31. Because the budget will not be adopted until mid-to-late February, additional spending authority is needed.

Staff is specifically requesting an additional \$75 million in spending authority. Like January, this amount is high given grant distributions to occur in the month of February; grant expenditures expected to be made in February will total \$59 million.

FISCAL/PERSONNEL IMPACT

Described above

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal: None – compliance

RECOMMENDATIONS

Should the Finance Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Finance Committee provides spending authority to State Bar staff for the period February 1, 2023, to the date of the Board of Trustees' adoption of the 2023 budget at an expenditure level not to exceed \$75 million.

ATTACHMENT LIST

- A.** Information Technology Budget Support

Information Technology Budget Support

Summary

	\$	\$	
2023 Non-Personnel IT Budget: @ \$5 Million Reserve Level		7,150,000	
Recurring Hardware/Software Licenses & Maintenance for Normal Operations	4,835,000		See Att A-1
New Hardware/Software Purchases	680,000		See Att A-2
IT Security and Infrastructure Initiatives	1,960,000		See Att A-3
Strategic Priority Projects	1,550,000		See Att A-4
Total Needed IT Spend		9,025,000	Versus \$7,150,000 available
Variance		1,875,000	\$9,025,000 less \$7,150,000
Amount to be funded by IT Loan		(820,000)	Reduces variance
Balance included in \$5M budget		1,055,000	

A-1

Recurring Software/Hardware Licenses & Maintenance for Normal Operations

Vendor/Service	Amount \$	Description
Microsoft Azure	840,000	Cloud hosting, storage, and backup for Exchange (emails), File Storage (all network and personal drives) and applications.
Microsoft (Crayon Software)	235,000	License for servers, desktops, PowerBI Premium, and SQL servers
Microsoft Unified Support	268,000	Support for M365 and Cloud Services
Microsoft M365	250,000	License for M365 (Office, Exchange, Teams, SharePoint, etc.)
Tyler Technologies	202,000	License for Tyler's Odyssey case management system
Oracle	270,000	License for Oracle Fusion Finance, HR and Procurement system
Oracle (AST)	420,000	Oracle Fusion third party support for configurations and enhancements.
Zoom	150,000	License for video conferencing and webinar system
InfoPro	70,000	License for eLearning platform
Sada Systems	60,000	License for web indexing tool
Jitterbit	66,000	License for data integration tool (between various applications)
Adobe	60,000	License for Adobe Acrobat (DC)
PowerBI	48,000	License for data analytics and reporting tool
Lyris/Hubspot	68,000	License for mass email/newsletter tools
GoDaddy	35,000	Registration of State Bar-owned domains
DNN	48,000	License for website content management platform
CommonLook	30,000	License for ADA remediation tool
VMWare	30,000	Support for VMWare virtual servers
Veeam	35,000	License for backup and recovery tools
Atlassian	25,000	License for IT project management and issue tracking tools (Jira, Confluence)
ManageEngine	15,000	License for IT asset management tool
Finvi	15,000	License for RevQ collections application
ProLaw	15,000	License for Office of General Counsel case management system
MoveIT	15,000	License for HIPAA compliance system
Telerik	12,000	License for various .NET development tools
ASNA	12,000	License and maintenance for AS400 database
Profound Logic	11,000	License for AS400 development tool
Zendesk	65,000	License IT helpdesk portal
Kwiktag	8,000	License for State Bar Court file server
Cisco	30,000	Support/maintenance for Cisco routers, switches, other hardware
Exagrid	20,000	Support/maintenance for data backup hardware
Intellectrace	73,000	Internet service
Intrado	28,000	800 number service
Lenovo	93,000	Support/maintenance for Lenovo physical servers, license for virtual servers
Lenovo	350,000	Leasing and support for laptops

Vendor/Service	Amount \$	Description
NTT VOIP Managed Service	263,000	Support/maintenance for telephone systems
Office Depot	25,000	Manage Print Service for network printers
Misc tools and systems	85,000	Various other (small) systems and tools
Security-related (multiple)	490,000	Multiple systems and tools related to network and application performance and security monitoring, threat detection, and deterrence (details omitted for security reasons)
TOTAL	4,835,000	

New Software/Hardware Purchases

Vendor/Service	Amount \$	Description
Wifi Access Points	100,000	Replace WiFi access points that have reached end of useful life
Switches	350,000	Replace data closet switches that have reached end of useful life
Hardware Contingency	130,000	Contingency to replace failed equipment or additional required equipment
Software Contingency	100,000	Contingency for non-enterprise level specialized software tools that may be required
TOTAL	680,000	

IT Security and Infrastructure Initiatives

Vendor/Service	Amount \$	Funded by IT Loan \$	Description
Multiple Vendors	600,000		Support for Odyssey case management system enhancements and upgrades
Envoy	20,000		Enhancements to Zendesk IT helpdesk system
SMCI	150,000		Support for further development and administration of M365 tools
GSPANN	360,000	80,000	Enhancements to IT quality engineering program. QE is essential to all project deployments.
GST	150,000		Enhancements to AV equipment and Zoom capabilities
CVCS	70,000		Updgrades to LA courtroom equipment
CVCS	n/a		Updgrades to SF courtroom equipment - \$180,000 <i>not funded in this scenario</i>
Multiple Vendors	150,000		Continued cloud migration of custom-built applications for enhanced security and performance
Midrange Support Group	30,000	30,000	Enhancements and support for AS400 licensee management system
CommVault	20,000	20,000	Cloud backup and recovery for AS400
California Dept of Technology	300,000		Application and network security assessments and remediation activities
Emagined Security	110,000		Various cybersecurity initiatives
TOTAL	1,960,000	130,000	

Strategic Priority Projects

Project	Amount \$	Funded by IT Loan \$	Description
Document Creation Tool	250,000		Automate creation of Word documents from Odyssey case management system data, including creation of Odyssey event. Improves efficiency by eliminating many manual steps.
E-filing	215,000		Transition State Bar Court from paper to electronic files, increasing case processing efficiencies and access for stakeholders.
CTAPP Reporting & Data Analysis	300,000	300,000	Integrate CTAPP data into data warehouse, enable analysis of CTAPP data against IOLTA reporting, complaint data, and other licensee information.
RevQ	n/a		Upgrade collections system to support improved transmission of debt from State Bar to FTB - \$50,000 <i>not funded in this scenario</i> .
DocuSign	80,000	80,000	Automation of manual processes: signatures and forms.
Online Payments	150,000	150,000	Automation of manual processes: centralized online payments.
eFax	10,000	10,000	Automation of manual processes: faxing.
PTL/Contact Center System	250,000		New system for inbound calls, emails and chat from public, licensees, applicants and other stakeholders, and tracking issues/cases for new Public Trust Liaison office.
Licensee communication tool	150,000	150,000	Upgrade communication tool for email correspondence with licensees and other stakeholders.
Agenda Management System	70,000		Replace system for management of board and committee agendas, for greater efficiency and transparency.
Teams Voice	75,000		Upgrade Voice Over IP Infrastructure to Teams Voice, to better support hybrid work environment; will eventually reduce other telephony infrastructure costs
TOTAL	1,550,000	690,000	